

May 4, 2006

Dear Mr Bradley,

Consumers Union is writing to submit 3 recommendations for Agency action [Docket #TM-06-06-PR NOP] based on the Proposed Rule being made as a result of the *Harvey v. Johanns* court ruling that upheld the Organic Food Production Act (OFPA) and the subsequent Congressional amendment, pushed by some industry groups, which overturned parts of the court ruling and weakened the OFPA. Those recommendations are:

1. Close loopholes that allow artificial substances to be used in organic production without review.

Now that artificial (synthetic) substances can legally be used in the 5% non-organic portion of foods labeled as "organic," Consumers Union wants to make sure that all of those substances are thoroughly reviewed, and placed on the National List by the National Organic Standards Board (NOSB), before they can be used in organic production. The amendment that changed the law to allow for the use of synthetic ingredients in "organic" food did not change the law requiring that all synthetic substances be reviewed before they are used-- including all processing aids and food contact substances. The currently practiced Food Contact Policy (issued by the USDA December 12, 2002) continues to contradict the OFPA and should be fully withdrawn since it allows for artificial (synthetic) substances to be used in organic food production without *any* review. This sets up dangerous loopholes that could even allow for creation of synthetic ingredients like partially hydrogenated oils to be made and used in organic foods without review.

2. Close loopholes that allow dairy animals that have been treated with antibiotics, animal byproducts and hormones to transition to organic dairy farms.

Organic dairy cows should be required to meet the same standards, for when they must be raised as organic, as other organic livestock raised for organic meat. That means that conventional dairy cows--that could have been treated with antibiotics, animal byproducts and hormones--should not be allowed to be moved onto organic farms. All organic livestock should be raised as organic before birth from the last third of the fetal gestation.

3. Don't allow use of non-organic substances without review.

Consumers Union is very concerned about USDA's ability to deem emergency exemptions for non-organic substances to be used that are not widely available as organic. We do not want non-organic substances used in organic products that have not been reviewed and approved by the National Organic Standards Board and placed on the National List.

Failure to fix these issues will compromise the integrity of the organic label. Allow the NOSB to exercise their authority given by the law, to review all substances used in

organic production. Please close these loopholes to keep the organic label as strong as it can be and don't cap the important role of the NOSB off at its knees.

Sincerely,

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